IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL REVISION NO.1369 OF 2007

DATE OF DECISION:09.07.2007

MALKIAT SINGH

.....PETITIONER

VERSUS

GURDIAL SINGH & OTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI.

PRESENT: Mr. Padam Jain,Advocate,
for the petitioner.

PERMOD KOHLI,J(Oral)

Validity of order dated 30.01.2007 passed by Additional Civil Judge (Senior Division), Sultanpur Lodhi has been questioned in this revision petition by the petitioner-applicant whose application/objections to the execution of the decree passed in favour of one Gurdial Singh and against Kewal Singh has been dismissed. During the pendency of an execution petition in respect to the execution of the decree secured by Gurdial Singh against Kewal Singh, the present petitioner made an application/objection objecting the execution of the decree on the ground that the property attached under execution is subject matter of an agreement to sell between the petitioner-applicant and the Judgment Debtor Kewal Singh. It was further stated that under the aforesaid agreement to sell, the applicant paid Rs.2.80 lacs to the J.D. for the purchase of the house, which has been attached in execution. The trial Court rejected this application on the ground that the agreement to sell was entered on 17.11.2006 and the property was attached on 22.11.2006 and the agreement is between the JD and the applicant who happened to be son in law and thus, he has no right to object the execution. It is not in dispute that the agreement to sell does not create any right /title over the

property or even a charge over the property. The property has been attached in the execution of the decree and the applicant-petitioner cannot make any claim in respect to attached property on the strength of the agreement to sell, as this property is admittedly owned by the Judgment Debtor. There is no infirmity in the impugned order. Petitioner is entitled to seek any remedy against the judgment debtor independently on the basis of agreement to sell, if it is a genuine document.

Petition dismissed.

July 9, 2007 **(PERMOD KOHLI)**
nt **JUDGE**